Jan Vishwas Act, 2023: Decriminalization for Ease or a Compromise on Accountability?

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Abstract

The Jan Vishwas (Amendment of Provisions) Act, 2023 represents a significant departure from the traditional punitive approach that has long defined India's regulatory regime. Aimed at fostering a more conducive environment for businesses and reducing the burden on criminal courts, the Act amends over 40 legislations by substituting imprisonment clauses with monetary penalties and introducing compounding provisions. At first glance, this legislative overhaul seems timely and reformative. However, a closer look reveals a more complex landscape—one where ease of doing business intersects with concerns over weakened regulatory enforcement and accountability.

This comment critically examines the Act's legislative intent, the laws it alters, and the broader implications it carries for India's regulatory ecosystem. It evaluates whether decriminalization, as implemented, serves the public interest or opens the door to administrative overreach and diminished deterrence. While the reform seeks to correct over-criminalization of technical breaches, the risk of overlooking sector-specific safeguards cannot be ignored. The comment concludes with policy suggestions to strike a careful balance between facilitating compliance and preserving the integrity of public law enforcement.

Keywords*: Jan Vishwas Act, decriminalization, regulatory reform, accountability, compounding offences, administrative discretion.*

Introduction

The burden of excessive criminalization in India's regulatory framework has long been a concern for businesses, policymakers, and courts alike. Minor procedural lapses, often without malicious intent, have historically attracted penal consequences under various central legislations. This culture of punitive enforcement has not only congested the criminal justice system but also hindered India's ambitions to position itself as a global investment hub. It is within this context that the **Jan Vishwas (Amendment of Provisions) Act, 2023** has emerged—a legislative response to the long-standing demand for rationalization and reform of regulatory provisions.

Passed in August 2023, the Act seeks to decriminalize minor offences across 42 laws by replacing imprisonment clauses with civil penalties and introducing compounding mechanisms. It amends a diverse range of statutes, including the Indian Post Office Act, Environmental Protection Act, Drugs and Cosmetics Act, Information Technology Act, and many others. The overarching objective is clear: to enhance the ease of doing business in India while streamlining the enforcement machinery.

However, this shift from criminal sanctions to administrative penalties also raises significant legal and ethical questions. Does the Act strike an appropriate balance between economic liberalization and regulatory integrity? Or does it risk enabling impunity under the guise of reform? This legislative comment attempts to explore these questions through a critical and policy-oriented lens.

Legislative Background & Objectives of the Act

India's regulatory architecture, historically shaped by colonial-era statutes, has often relied on criminal liability to enforce compliance with economic and administrative laws. This punitive design, though intended to deter non-compliance, has inadvertently created a chilling effect on entrepreneurship and innovation. The overuse of criminal sanctions for technical violations—such as procedural lapses, licensing delays, or incorrect filings—has resulted in unnecessary

litigation, judicial backlog, and bureaucratic overreach. Recognizing this imbalance, the Union Government proposed a sweeping reform in the form of the **Jan Vishwas (Amendment of Provisions) Bill, 2022**, which was eventually enacted as law in August 2023.

The legislation amends 42 Central Acts spanning diverse sectors, including pharmaceuticals, environment, post, agriculture, media, and IT. Its primary objective is to transition from a punitive regime to a compliance-oriented framework. It achieves this by either removing imprisonment clauses for minor violations or converting them into compoundable civil penalties. The shift is anchored in the broader agenda of promoting the "Ease of Doing Business" and attracting foreign and domestic investment by fostering regulatory certainty and reducing fear of criminal prosecution for inadvertent lapses.

More significantly, the Act reflects a policy shift in India's governance model—one that favours **trust-based administration** over deterrent regulation. It assumes that most regulatory violations arise not from criminal intent but from procedural inefficiency or lack of clarity. While the intent is commendable, the implementation must be assessed critically, especially in sensitive sectors like health and environment, where decriminalization may undermine public interest.

Key Amendments and Affected Statutes

The Jan Vishwas Act's legislative footprint is notably wide, impacting a range of laws that regulate essential sectors of public life and commerce. While its decriminalizing thrust is consistent across the board, the implications differ based on the nature and objectives of each statute. This section offers a closer examination of selected Acts to assess the substance and consequence of the amendments.

1. **Drugs and Cosmetics Act, 1940 :** Among the most consequential amendments lies in the pharmaceutical sector. Earlier, certain contraventions such as misbranding of drugs or non-compliance with licence terms attracted imprisonment, even for technical lapses that did not cause public harm. The Jan Vishwas Act has removed imprisonment in

several such instances, replacing it with graded monetary penalties. While this enhances regulatory flexibility and reduces fear among small manufacturers, it also raises concerns about **lowered deterrence in a public health domain**. When pharmaceutical violations are treated as administrative errors rather than criminal offences, the line between negligent and malicious conduct becomes dangerously blurred. A more calibrated approach—such as retaining imprisonment for willful breaches—may have better served public safety.

2. **Environment (Protection) Act, 1986:** Perhaps the most debated amendment pertains to the decriminalization of minor violations under environmental law. The Jan Vishwas Act replaces imprisonment with monetary fines for several breaches, including failure to furnish reports or abide by procedural norms. The concern here is that environmental regulation inherently serves **collective and long-term interests**, which are difficult to monetize. By removing penal provisions, the Act risks commodifying environmental compliance. Critics argue that enforcement agencies, already under-resourced, may find it harder to ensure accountability in the absence of criminal sanctions. In effect, what is framed as "ease of compliance" could become **ease of circumvention**.
3. **Indian Post Office Act, 1898 :** In contrast, the amendments to the Indian Post Office Act have received relatively broad approval. The removal of imprisonment for operational lapses—such as delay in handling undelivered items or clerical errors—has been welcomed as rational and proportionate. These provisions had long outlived their relevance in a digitized communication era. Their retention had created **regulatory friction** without serving any deterrent function. By streamlining these, the Jan Vishwas Act demonstrates a case where decriminalization is both legally and economically sound.
4. **Information Technology Act, 2000:** The IT Act amendments similarly target procedural infractions—such as failure to maintain prescribed records. These are now subject to compounding or monetary penalties. The amendment aligns with global best practices where technical defaults are penalized administratively unless linked to data breaches or criminal misuse. However, given the rapidly evolving nature of cyberspace regulation, the substitution of imprisonment with fines must be supported by **strong institutional oversight** and grievance redress mechanisms to avoid abuse of discretion.

Balancing Regulatory Objectives with Ease of Doing Business

The Jan Vishwas Act, in its essence, attempts to recalibrate the relationship between the state and the regulated citizen by replacing criminal sanctions with civil consequences. This shift aligns with global regulatory trends favouring **responsive regulation** and the **principle of proportionality**. Yet, any such systemic reform must be judged not merely by intent but by the robustness of its safeguards and its alignment with constitutional values, particularly those of **accountability**, **transparency**, and **equality before the law**.

The Case in Favour of Decriminalization

One cannot discount the practical necessity that prompted this reform. India's regulatory environment has long been described as **compliance-heavy and penalty-driven**, often treating technical non-conformities at par with substantive criminal violations. This has imposed **legal uncertainty**, particularly on micro, small, and medium enterprises (MSMEs), which often lack the resources or legal expertise to navigate hyper-formalistic statutes. Decriminalization, in such contexts, prevents the criminal justice system from being burdened with disputes better suited for administrative resolution. Furthermore, the substitution of jail terms with graded fines and compounding provisions introduces **flexibility**, allowing regulatory authorities to adopt a case-sensitive approach. It may also encourage better voluntary compliance, as stakeholders are more likely to engage with enforcement agencies when legal consequences are not excessively punitive. The Act, therefore, seeks to embed a **trust-based model** of governance, resonating with the broader philosophy of minimum government and maximum governance.

The Risks of Administrative Overreach and Dilution of Deterrence

Yet, the reform is not without critique. The most pointed concern lies in its **over-reliance on administrative discretion**. The Act does not lay down a uniform framework to guide regulators on when to compound offences and how to determine penalties. In the absence of transparent criteria or appellate safeguards, this opens the door to arbitrary decision-making

or, worse, corruption. More critically, **blanket decriminalization fails to distinguish between wilful, negligent, and inadvertent violations**. For example, an environmental infraction may be labelled "minor" based on procedural categorization, but its ecological impact could be significant. The absence of criminal liability in such cases may embolden offenders to treat compliance as a calculable cost of doing business rather than a binding legal obligation. This is particularly worrisome in sectors involving public health, safety, and environmental protection, where **deterrence through penal consequence remains a vital regulatory tool**. In criminal law theory, deterrence serves not just the function of punishment but also of signaling the seriousness of an offence. By replacing imprisonment with fines—even in the case of recurring or systemic breaches—the Jan Vishwas Act may inadvertently weaken this signal.

Striking a Middle Path: Decriminalization with Accountability

To preserve the Act's intended benefits while mitigating its risks, a **nuanced enforcement strategy is essential**. First, classification of offences into "truly minor" and "substantively harmful" must be made explicit in each amended statute. Second, regulators should be bound by publicly disclosed guidelines for compounding, including timelines, amount calculations, and mandatory record-keeping. Finally, decriminalization should be accompanied by **strengthening of administrative adjudication mechanisms**, including appellate bodies and digital grievance redress platforms. A regulatory state, to be effective, must not only reduce criminal law's footprint but also enhance the **credibility of civil enforcement**.

Comparative Insight: Lessons from Global Regulatory Models

India's movement towards decriminalization of regulatory offences is not without precedent. Jurisdictions across the globe have experimented with balancing criminal liability and civil enforcement to foster regulatory efficiency while preserving public accountability. Two such examples—**the United Kingdom** and **Singapore**—offer valuable lessons in implementing reform without compromising regulatory credibility. In the UK, the **Regulatory**

Enforcement and Sanctions Act, 2008 introduced a tiered approach that empowers regulators to impose **civil sanctions** such as compliance notices, restoration orders, and monetary penalties. Importantly, the Act establishes clear procedural rules and statutory guidance to minimize arbitrary application. Moreover, it preserves the possibility of criminal prosecution in cases of willful or repeated non-compliance, thereby maintaining deterrence for serious breaches. This flexible framework encourages compliance while reinforcing regulatory norms through structured enforcement.

Singapore, on the other hand, follows a model of **selective decriminalization**, where minor infractions are treated as administrative offences, but regulatory agencies retain the discretion to escalate matters to criminal courts in cases of gross negligence or repeated violations. This system is supported by **strong institutional accountability** and an efficient dispute resolution framework, which deters misuse of administrative discretion.

Both jurisdictions demonstrate that decriminalization need not equate to deregulation. Rather, it must be embedded in a **mature enforcement ecosystem**—a lesson highly relevant to India as it operationalizes the Jan Vishwas Act.

Suggestions and Policy Recommendations

The Jan Vishwas Act marks a commendable beginning in reshaping India's regulatory philosophy, yet its success will depend not merely on legislative text but on implementation architecture. To ensure the Act does not inadvertently dilute enforcement or undermine public interest, a series of **structural and procedural safeguards** must be integrated.

Sector-Specific Impact Assessments

A uniform decriminalization model risks overlooking sectoral nuances. What may be a minor offence in the postal sector could have serious consequences in pharmaceuticals or environmental governance. Thus, future reforms must be preceded by **independent impact assessments**, accounting for public health, safety, and environmental implications.

Transparent and Standardized Compounding Framework

The lack of procedural clarity on compounding creates the possibility of arbitrary enforcement. Introducing **standardized guidelines**—defining eligible offences, penalty ranges, and timelines—would mitigate discretion and reduce scope for abuse. These should be made publicly accessible and subject to annual review.

Strengthened Administrative Redressal Mechanisms

Decriminalization must go hand-in-hand with robust grievance redress systems. Establishing dedicated **quasi-judicial regulatory tribunals** or appellate authorities would offer recourse to aggrieved parties and enhance procedural fairness, especially where fines are disproportionate or unjustified.

Periodic Sunset Clauses and Review Mechanisms

To prevent ossification of reform, Parliament should introduce **sunset clauses** on certain amendments—requiring periodic legislative review based on compliance data and enforcement outcomes. This ensures adaptability and evidence-based governance.

Together, these recommendations aim to sustain the spirit of the Jan Vishwas Act while embedding it within a framework of **responsive, accountable, and transparent regulation**.

Conclusion

The **Jan Vishwas Act, 2023** signals a paradigm shift in India's regulatory philosophy—from one rooted in deterrence by criminal sanction to one grounded in trust, flexibility, and administrative efficiency. By decriminalizing a range of technical and procedural offences, the legislation seeks to reduce judicial backlog, enhance investor confidence, and modernize outdated compliance norms. It acknowledges the growing consensus that not all legal breaches merit criminal prosecution, especially when the underlying intent is non-malicious and the harm is minimal.

Yet, the Act's potential benefits must be weighed against the real risk of **regulatory dilution** and **uneven enforcement**, particularly in sectors involving public health, environment, and digital governance. The removal of penal consequences, without corresponding institutional reform, could enable rule avoidance rather than lawful compliance.

What is ultimately needed is not a blanket rejection or endorsement of decriminalization, but a **context-sensitive, data-driven approach** to regulation. The Jan Vishwas Act must be seen as a **living legislative experiment**—one that requires continuous calibration, institutional oversight, and sectoral sensitivity. If implemented with care and supplemented by procedural safeguards, the Act could indeed be a blueprint for thoughtful legislative reform in a rapidly evolving regulatory landscape.

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